

Notice of Allowability

Application No.

09/671,089

Examiner

Sheridan K Snedden

Applicant(s)

O'MAHONY ET AL.

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 29 August 2003.
2. ☒ The allowed claim(s) is/are 1,3,5,12-15 and 19-29.
3. ☒ The drawings filed on 27 September 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____. |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____. | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. Applicant cancellation of claims 2, 4 and 6, amendment to claims 1, 3, 5 and addition of new claims 12-30 filed 27 August 2003 is acknowledged. Claims 1, 3, 5, and 7-30 are pending. Claims 7- 11 have been withdrawn from consideration.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jonathan Dermott on October 16, 2003.

3. All pending claims are displayed below. The application has been amended as follows:

Cancel claims 7-11, 16-18 and 30

Claim 1. A composition[,] comprising a peptide having an amino acid sequence [substantially] as set forth in SEQ ID NO: 2 or 3.

Claim 13. A composition according to Claim 12, wherein the DNA is in the form of a said peptide [MTL P] coated liposome.

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Claim 19. A composition for use in membrane translocation, the composition consisting of a peptide [an MTLP] comprising an amino acid sequence of SEQ ID [Nos.] NO: 2 or 3.

Claim 20. A composition of Claim 19, wherein said peptide [MTLP] is complexed to a liposome.

Claim 23. A composition for use in membrane translocation, the composition comprising a peptide [an MTLP] as set forth in [comprising an amino acid sequence SEQ ID Nos.] SEQ ID NO: 2 or 3 [2, 3, and 15-22,] wherein said peptide [MTLP] comprises D-isomers of amino acids.

Claim 24. A composition according to Claim 23, wherein the peptide [MTLP] is complexed to an active agent to be translocated.

Claim 25. A composition according to Claim 23, wherein the peptide [MTLP] is complexed to an active particle to be translocated.

Claim 27. A composition according to Claim 26, wherein the DNA is in the form of a said peptide [MTLP] coated liposome.

Conclusion

4. Claims 1, 3, 5, 12-15 and 19-29 are allowed.

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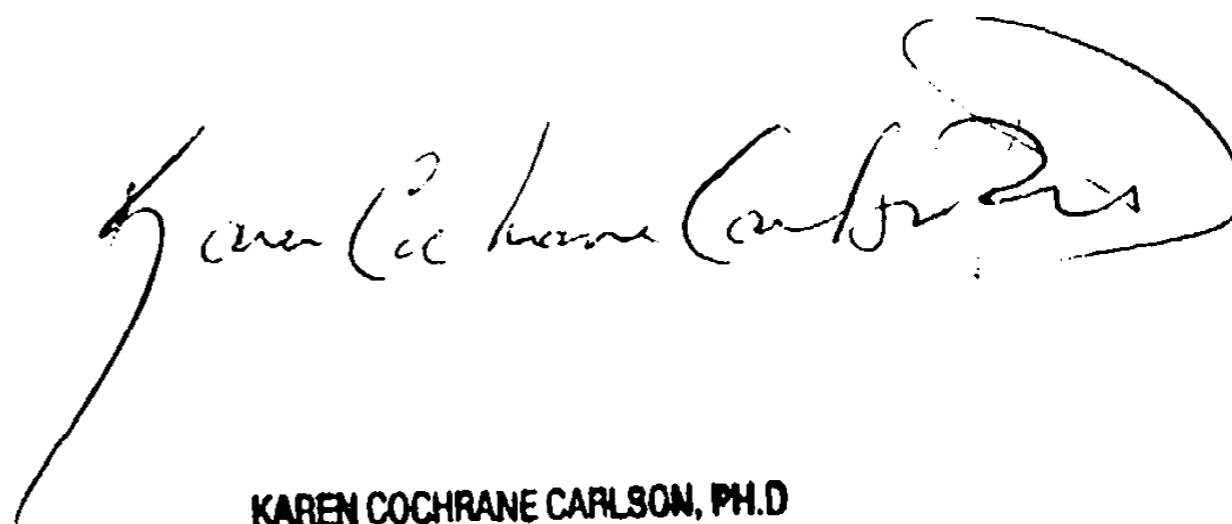
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheridan K Snedden whose telephone number is (703) 305-4843.

The examiner can normally be reached on Monday - Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (703) 308-2923. The fax phone number for regular communications to the organization where this application or proceeding is assigned is (703) 746-3975.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

SKS
October 20, 2003

A handwritten signature in black ink, appearing to read "Karen Cochrane Carlson". The signature is fluid and cursive, with a large loop at the end.

KAREN COCHRANE CARLSON, PH.D
PRIMARY EXAMINER